

Daniel L. Wainwright, # 193486
McCormick, Barstow, Sheppard
Wayte & Carruth LLP
P.O. Box 28912
5 River Park Place East
Fresno, CA 93720-1501
Telephone: (559) 433-1300
Facsimile: (559) 433-2300

(SPACE BELOW FOR FILING STAMP ONLY)

Attorneys for Defendant
JOHN J. HOLLENBACK, JR.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT

MELVIN JONES, JR.,

Plaintiff,

v.

JOHN J. HOLLENBACK, JR.,

Defendant.

Case No. F-05-0148 OWW DLB

**ORDER OF THE COURT REGARDING
MOTION TO QUASH THIRD PARTY
SUBPOENAS**

Hearing Date: April 25, 2007

Time: 2:00 p.m.

Dept. 3

The Honorable Judge Wanger

Trial Date: May 8, 2007

On Wednesday, April 25, 2007 at 2:00 p.m. the Motion to Quash the subpoenas of the Honorable Judge Marie Sovey-Silveira, the Honorable Jack Jacobsen, the Honorable Judge Glen Ritchey and Court Executive Officer Michael Tozzi came before this Court, the Honorable Oliver Wanger presiding. Counsel for the moving party, William Krabbenhoft, was present in Court. Counsel for the party who issued the subpoenas in question, Daniel L. Wainwright, was present on behalf of Defendant. Plaintiff, who is acting in Pro Per, was present telephonically.

The Court having reviewed and considered the Motion, the Opposition, the Reply, and all oral argument presented during the April 25, 2007 hearing hereby ORDERS, the following:

1 (1) The Motion to Quash the trial subpoena served on Judge Marie Sovey-Silveira is
2 DENIED in PART (OWW). Judge Sovey-Silveira may be questioned as to whether she was
3 involved in any race-based conspiracy against Plaintiff. The Judge can also testify whether she
4 entered the courtroom on April 15, 2004, with an sign and, if so, displayed said sign to Plaintiff
5 and/or Defendant; and whether the Judge and Defendant made or exchanged any non-verbal
6 gestures during the April 15, 2004 contempt trial presided over by Judge Jacobsen. This witness
7 is not to be questioned regarding her colloquy during any state court family law proceedings, her
8 earlier rulings, orders, or any other judicial related functions.

9 (2) The Motion to Quash the trial subpoena served on Judge Jack Jacobsen is
10 GRANTED.

11 (3) The Motion to Quash the trial subpoena of Judge Glen Ritchey is hereby
12 GRANTED.

13 (4) The Motion to Quash the trial subpoena served on Michael Tozzi is DENIED.
14 Mr. Tozzi may be questioned regarding any involvement in a race-based conspiracy relative to
15 Plaintiff as well as whether or not he was served with a subpoena to appear at a March 2004 state
16 court family law hearing. Mr. Tozzi will not be questioned as to his job duties, the performance
17 of his job duties, his role and function with the Stanislaus County Superior Court, the structure of
18 the Court or any other matter relative to the procedural aspects of the underlying family law case
19 involving Plaintiff and Kea Chhay.

20 The parties acknowledge that the Court will issue a Memorandum of Opinion and
21 Decision setting forth the specifics for its granting, in part, and denying in part, the Motion to
22 Quash in the near future.

23
24
25 DATED: April 27, 2007

 /s/ Oliver W. Wanger
 The Honorable Oliver Wanger